THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO.2984 OF 2007

Dated 19-04-2007

Between:

K.G.Prakash Chary … Petitioner

And

High Court of Andhra Pradesh
Rep. By its Registrar (Administration)
And another … Respondents

THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO.2984 OF 2007

O R D E R *(Per the Hon'ble Sri Justice Bilal Nazki):*

Heard learned counsel for the parties.

Counter has been filed. The short question involved in this writ petition is that the petitioner was removed from service as a result of an enquiry into misconduct. The order of removal from service was challenged by the petitioner before this Court in a writ petition being W.P.No.1826 of 1997, which was decided by this Court on 31-01-2002.

This Court in W.P.No.1826 of 1997 did not disturb the finding of misconduct, but was of the view that the punishment given to the petitioner was disproportionate to the proved misconduct. The Court altered the punishment and held

> *"interests of justice and fair play will be amply met if we order by way of punishment that the petitioner is not entitled to any payment from 31-10-1992 to 26-04-1995, other than the subsistence allowance already received by him, and that he will not be entitled for payment of any salary from 26-04-1995 till the date of his reinstatement.* ***We make it clear that the petitioner will be reinstated in service with continuity of service only. The***

petitioner shall be reinstated into service within two weeks from today."

31-10-1992 was the date when the petitioner was placed under suspension and 26-04-1995 was the date when he was removed from service. We have our own doubts about the correctness of the judgment in W.P.No.1826 of 1997 to the extent that the Court ordered by way of punishment what it has ordered, since the punishment ordered by the Court is not provided by the Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 (for short "the Rules) as a mode of punishment. Therefore, we have our own doubts whether a punishment which is not provided by the Rules can be given by a Court. In any case, in this matter, we will not be in a position to go into that question and we have to interpret the order of this Court in W.P.No.1826 of 1997 as it is.

This Court in W.P.No.1826 of 1997 directed reinstatement of the petitioner with continuity of service only and even deprived him of the monetary benefits for the period for which he was under suspension. Therefore, it cannot be assumed that he was entitled to any increments particularly, when misconduct was proved against him and was not disturbed by this Court.

F.R.54-A (1) of the Andhra Pradesh Fundamental Rules lays down that where the dismissal, removal or compulsory retirement of a Government servant is set aside by a Court of law and such Government servant is reinstated without holding any further inquiry, the period of absence from duty shall be regularized and the Government Servant shall be paid pay and allowances in accordance with the provisions of sub-rule (2) or (3) subject to the directions, if any,

of the Court.

Therefore, in this case, we find that the directions of the Court were that the petitioner should not draw any benefits for the period for which he was under suspension or he was out of service because of the order of removal from service.

For these reasons, the writ petition is devoid of merits and is accordingly dismissed.

(Bilal Nazki,J)

Dated 19th April, 2007

(Nooty Ramamohana Rao,J)

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